

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SAHEED B. DAIRO,

Defendant.

8:22CR35**ORDER**

This matter is before the Court on counsel Katryna Lyn Spearman’s (“Spearman”) Renewed Motion to Withdraw as Attorney of Record (Filing No. 65). From the outset of this case, Spearman and her colleagues at Lowther, Walker Law Firm represented defendant Saheed B. Dairo (“Dairo”), who was indicted on several fraud and identity-theft offenses (Filing No. 1). Dairo pleaded guilty (Filing No. 40) to some of those charges on December 13, 2023, and was later sentenced by the Court to a total of 175 months imprisonment to be followed by five years of supervised release. *See* 18 U.S.C. §§ 1028A(a)(1), 1344.

On April 1, 2024, Dairo filed a *pro se* Notice of Appeal (Filing No. 53) with the Court, indicating he wished to appeal without Spearman or other counsel. The Court construed that letter as a timely notice of appeal (Filing No. 54) but noted Dairo needed to either submit the \$605.00 fee for the appeal or request leave to proceed in forma pauperis. The Court also stated Spearman remained counsel of record in the matter and, under Eighth Circuit rules, must generally continue to represent him on appeal unless the circuit approves her withdrawal. *See* 8th Cir. R. 27B(a). The Court granted Dairo leave to proceed in forma pauperis on appeal on June 20, 2024 (Filing No. 62). That same day, Spearman was appointed by the Eighth Circuit to represent Dairo in his appeal.

But Spearman wants out. In the present motion, Spearman says she filed a motion to withdraw with the Eighth Circuit on June 5, 2024, which was denied. She now turns to this Court for permission to withdraw from Dairo's case. According to Spearman, Dairo complains she was ineffective, creating a significant conflict of interest. She also informs the Court that she is on maternity leave and has spoken with the Federal Public Defender's Office for the District of Nebraska about taking over representation.

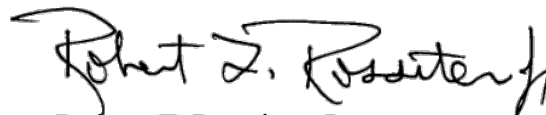
Eighth Circuit Rule 27B provides that retained trial counsel in criminal cases "must represent the defendant on appeal, unless the Court of Appeals grants permission to withdraw." The circuit court will rarely grant such permission "unless another attorney has entered an appearance for the defendant on appeal or another attorney has agreed to represent the defendant on appeal and the defendant has consented to the appearance of that new attorney." *Id.*

Any permission to withdraw must therefore be granted by the Eighth Circuit, not this Court. If Spearman wishes to pursue the issue further, she should notify the Eighth Circuit of her grounds for withdrawal—including the potential conflict of interest—and either have the Federal Public Defender enter an appearance or detail their agreement to represent Dairo on appeal. Spearman's motion is therefore denied.

IT IS SO ORDERED.

Dated this 11th day of July 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
Chief United States District Judge